

Alison has been with the Smithsonian Institution since 2005 and previously spent twenty-four years working at NASA. There, she served as Deputy Associate Administrator for the Management of the Science Mission Directorate. From 2002–2004, Alison was the Associate Director of NASA's Goddard Space Flight Center.

Throughout her career in public service, Alison has consistently demonstrated a keenness for public administration and successful management.

She holds an undergraduate degree in Human Development from the University of Connecticut and a master's of social work from Columbia University. She has pursued additional study as well at the Simmons College Graduate School of Management and Harvard's Kennedy School of Government.

Madam President, I hope my colleagues will join me in thanking Alison McNally and all those who work at the Smithsonian Institution for their service to our Nation.

They are all truly great Federal employees.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KAUFMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KAUFMAN. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REGULATORY CAPTURE

Mr. KAUFMAN. Madam President, the story of regulatory failure surrounding the Deepwater Horizon oil spill by now is all too well known. The Minerals Management Service, called MMS, the now defunct agency that had been charged with assuring that drilling off America's coast was safe, environmentally responsible, and a reliable revenue source for the taxpayers, became the single most recognizable example of regulatory capture in U.S. history.

Regulatory capture is when a regulatory agency permits its judgments to be clouded by the narrow economic interests of the industry it is supposed to be regulating. It is the absolute opposite of how regulators should work, which is to safeguard the greater and broader interests of public health, safety, and prosperity against often complex, powerful, and narrowly minded industries.

Regulatory capture can happen for a number of reasons. First, regulatory capture can happen where the revolving door constantly shuttles individuals from the private sector to the regulator and vice versa. Regulators may be compromised by the implicit promise of lucrative employment should they only look out for the industry

during their watch. It is this indicator of regulatory capture at MMS that the Washington Post described in such shocking detail in last week's front-page story.

Seventy-five percent of oil lobbyists formerly held jobs in the Federal Government. Randall Luthi, who directed the MMS from 2007 to 2009, is now president of the National Ocean Industries Association, the trade association for producers, contractors, engineers, and supply companies that explore and drill for oil and natural gas in offshore waters.

According to the Department of Interior inspector general's report, one examiner conducted safety checks at four rigs owned by one company, while at the same time negotiating for a job for himself with the very same company.

It also works in both directions. According to an MMS district manager, almost all MMS inspectors had previously worked for oil companies on the same platforms they were inspecting.

As Ken Salazar testified last week before the House, he is aware of the problems caused by the revolving door and is taking steps to address it. And I know he will. Michael Bromwich, who directs the Bureau of Ocean Energy Management—the successor to the MMS—has also pledged to beef up cooling-off periods which restrict the ability of former oil regulators to seamlessly flow directly from government into a high-paying industry job.

Poor funding, morale, or training for regulators can also play a role in regulatory capture. This, too, may have played a part in the ineffectiveness of MMS. During the prior administration, the workforce at MMS shrank by approximately 8 percent, even as offshore minerals exploration leases and acres leased increased by 10 percent over the same period. Leases go up by 10 percent, employees go down by 8 percent. That does not seem to make sense, but it fits into the idea of regulatory capture.

A third factor that may lead to regulatory capture is if a regulator is responsible for just one industry, such as MMS was responsible for only regulating the exploration activities of oil companies. Industry groups with a laser-like focus can lobby single-industry regulators, whereas the public's interest is likely to be much more diffuse. In addition, the revolving door may be amplified for a single-industry regulator because the regulators have relatively few options for seeking private sector employment after they leave the single-industry regulator.

Mr. Bromwich has also been quick to recognize the problems caused by having such a small and captive pool of inspectors. As he works to make the job of oil rig inspector more attractive, Congress should support these efforts as an effective way to counter regulatory capture.

Vague statutory lines drawn by Congress, as well as loose oversight, are a

fourth contributor to regulator capture because they give captive regulators plenty of room to stretch and contort the law without necessarily breaking the law or even having to explain their actions.

Finally, complex industries, large masses of proprietary data are also able to control the flow of information to the regulators—information that will form the basis of regulation and enforcement, thereby precluding effective regulation.

We have a business that is very complex. There is a lot of information flowing. It is more and more difficult for the regulator to keep track of the information they need to do their regulation and enforcement.

While I have heard colleagues and commentators argue that Secretary Salazar did not do enough fast enough to reverse the problem of regulatory capture in time to avert the BP disaster, these myopic criticisms ignore the deep and lasting damage that Secretary Salazar found when he arrived done by many of our regulators in the previous administration.

During the last administration, a deregulatory mindset captured our regulatory agencies. They became enamored of the view that self-regulation was adequate—that was throughout the government—that rational self-interest would motivate counterparties to undertake stronger and better forms of due diligence than any regulator could perform, and that market fundamentalism would lead to the best outcomes for the most people.

When the regulators themselves feel the best regulation is no regulation at all, when a laissez faire mindset causes the regulators to be deeply distressful of curbs on any industry practice, then regulatory capture is all but ensured. During these 8 years, Congress's failure to conduct vigorous oversight was particularly damaging as well.

What we had was a situation where we basically pulled the referees off the field and did not even watch what was going on and what happened.

This deregulatory mindset, more than any other factor, explains why we have suffered so many examples of failed regulation in recent years, especially in our financial sector and oil and mineral industries.

It is interesting that I hear colleagues on the other side of the aisle say: The government didn't do this right; the government didn't do right in the oil thing. How could they when the last administration took us completely out of the oil regulation business? How did everything happen on these sites without an inspector there to check that the batteries were working, to see that inspections were carried out.

The Federal Government was denuded of any ability to do anything once the spill developed, once the leak started because we believed the reports that were put out by the companies. No one looked at them and said: Don't